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12 *Renee Baker, Curtis Kerner, &*
13 *Michael Koehn*

14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 JOSE AGUILAR,

17 Plaintiff,

18 v.

19 MICHAEL B. KOEHN, et al.,

20 Defendant.

Case No. 3:16-cv-00529-MMD-VPC

21 **DEFENDANTS' MOTION FOR**
ENLARGEMENT OF TIME TO FILE
MOTION FOR SUMMARY JUDGMENT
(Third Request)

22 Defendants, Renee Baker, Curtis Kerner, and Michael Koehn (Defendants), by and through
23 counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Gerri Lynn Hardcastle, Deputy
24 Attorney General, hereby submit their Motion for Enlargement of Time to File a Motion for Summary
25 Judgment (Third Request). This Motion is based on Federal Rule of Civil Procedure 6(b)(1)(B), the
26 following Memorandum of Points and Authorities, and all papers and pleadings on file in this action.

27 **MEMORANDUM OF POINTS AND AUTHORITIES**

28 **I. ARGUMENT**

29 Defendants respectfully request a fourteen (14) day extension of time out from the current
30 deadline (August 1, 2018) to file a dispositive motion in this case. Counsel for Defendants is
31 confronted with numerous competing deadlines and a high workload due to staffing changes in the
32 Office of the Attorney General. However, such obstacles are currently being resolved and the requested
33 extension of time should afford Defendants adequate time to file a dispositive motion in this case.

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Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Defendants' request is untimely by one (1) day and regrettably, Defendants must rely on excusable neglect to justify an extension. *See* ECF No. 38; *see also* FED. R. CIV. P. 6(b)(1)(B). Due to a sudden death in the family on August 1, 2018, defense counsel was unable to submit a dispositive motion on that deadline. A determination of excusable neglect is soundly within the discretion of the Court. *See Rodgers v. Watt*, 722 F.2d 456, 460 (9th Cir. 1983) (internal citations omitted). Defense counsel is aware that the Court ruled that no further extensions would be granted. *See* ECF No. 38. However, defense counsel respectfully relies upon the Court's indulgence, given the unexpected contingency (sudden death of a family member) that arose on August 1, 2018. The requested fourteen (14) day extension of time should permit Defendants time to submit a dispositive motion. Defendants assert that the excusable neglect is present to warrant the requested extension of time.

For these reasons, Defendants respectfully request a fourteen (14) day extension of time from the current deadline to file a dispositive motion in this case, with a new deadline to and including Wednesday, August 15, 2018.

DATED this 2nd day of August, 2018.

ADAM PAUL LAXALT
Attorney General

By: GERRI LYNN HARDCASTLE
GERRI LYNN HARDCASTLE
Deputy Attorney General
Bureau of Litigation
Public Safety Division

Attorneys for Defendant

IT IS SO ORDERED.

U.S. DISTRICT JUDGE

DATED: August 6, 2018

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 2nd day of August, 2018, I caused to be deposited for mailing, a true and correct copy of the foregoing, **DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME TO FILE MOTION FOR SUMMARY JUDGMENT**

(Third Request), on the following:

(Third Request), on the following:

JOSE AGUILAR, #80140
ELY STATE PRISON
P.O. BOX 1989
ELY, NV 89301

Connie L. Stoen
An employee of the
Office of the Attorney General